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House Concurrent Resolution

A concurrent resolution proposing the adoption of Joint Rule 8, Joint Rules of the Florida Legislature, relating to the Joint Legislative Claims Committee.

WHEREAS, Article X, section 13 of the State Constitution gives the Legislature the exclusive authority to make provision "by general law for bringing suit against the state as to all liabilities now existing or hereafter originating;" and

WHEREAS, the Legislature provided for bringing suit against the state and its agencies and subdivisions by the enactment of section 768.28, F.S.; and

WHEREAS, section 768.28, F.S., is a limited waiver of sovereign immunity and provides caps on the amount of a claim that may be paid thereunder. Judgments or settlements against uninsured state agencies or subdivisions that exceed the statutory caps may only be paid by further act of the Legislature; and

WHEREAS, Joint Rule 8 establishes an internal process of the Legislature and does not create any new rights or remedy; and

WHEREAS, Joint Rule 8 is not intended and shall not be construed to create any right to legislative hearing or consideration of a claim bill; and

WHEREAS, Joint Rule8 shall not be construed to waive any defense of sovereign immunity or to increase the limits of liability on behalf of the state or any person or entity subject to the provisions of section 768.28, F.S.; NOW, THEREFORE,

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Be It Resolved by the House of Representatives of the State of Florida, the Senate Concurring:

That Joint Rule 8, Joint Rules of the Florida Legislature, is hereby created to read:

Joint Rule Eight

Joint Legislative Claims Committee

8.1—Filing Claim Bills

(1) All claim bills filed in the Florida Legislature shall be considered through the procedure set out in this joint rule.

(2) Claim bills shall be filed with the Secretary of the Senate and the Clerk of the House of Representatives, as required by the rules of each chamber.

(3) Local claim bills must be filed by a member of the legislative delegation where the claimant resides. If the claimant resides outside of the state, a local claim bill may be filed by any member. General claim bills may be filed by any member.

(4) Upon filing, each claim bill shall be immediately referred to the Joint Legislative Claims Committee. The bill may also be referred to one appropriations committee in each chamber, at the discretion of the presiding officer of each chamber. No additional referrals shall be made.

(5) After a claim bill has been voted favorably by the Joint Legislative Claims Committee, the bill shall be reported to the chamber in which it originated for referral to an appropriations committee, or to be placed directly on the calendar of each chamber in accordance with the rules of that chamber.

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58 (6) The joint committee is authorized to request that claim
59 bills be placed on a consent calendar in both chambers.

60 8.2-Appointment of Members of the Joint Legislative Claims
61 Committee; powers and duties.

62 (1) There shall be a Joint Legislative Claims Committee,
63 the membership of which shall consist of five members of the
64 House of Representatives appointed by the Speaker of the House of
65 Representatives and five members of the Senate, appointed by the
66 President of the Senate.

67 (2) The Joint Legislative Claims Committee shall meet at
68 times and places necessary to perform the functions assigned to
69 it.

70 (3) Action by a majority vote of the membership of the
71 joint committee shall control and be conclusive on any matter
72 considered by the Joint Legislative Claims Committee.

73 (4) The Speaker of the House of Representatives shall
74 appoint the chair in the odd years and the vice chair in even
75 years, and the President of the Senate shall appoint the chair in
76 even years and the vice chair in odd years, from among the
77 committee membership.

78 (5) The salaries and expenses of the staff of the Joint
79 Legislative Claims Committee shall be paid from the Legislature's
80 approved operating budget.

81 (6) The chair of the joint committee shall have the
82 authority to set the committee's agenda, and set priorities for
83 special master consideration.

84 (7) The joint committee is authorized to publish biannually
85 a manual detailing the policies and procedures of the joint
86 committee, subject to the approval by the presiding officers.

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8.3-Hearings

(1) A special master shall have the authority to control all proceedings before the special master, including the authority to:

(a) conduct hearings, prehearing conferences, and management conferences pursuant to reasonable notice;

(b) allow discovery if deemed beneficial to the consideration of the claim bill;

(c) administer oaths to witnesses;

(d) admit or reject evidence;

(e) make arrangements for preparing a record of the proceedings;

(f) accept tangible and documentary evidence;

(g) issue subpoenas as provided by law; and

(h) take such other steps as are reasonably necessary to conduct a thorough and orderly investigation of the basis for the claim bill.

(2) In all proceedings before the special master, the provisions of the Florida Rules of Civil Procedure and the Florida Evidence Code shall be instructive; however, at the discretion of the special master, the proceedings may be as informal as necessary to achieve an equitable disposition of the claim bill.

(3) Upon completion of the hearing and other proceedings incidental thereto, the special master shall prepare and submit a report to the Joint Legislative Claims Committee, which report shall contain findings of fact, conclusions of law, collateral sources of recovery and recommendations regarding the disposition of the claim bill.

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117 (4) Stipulations as to the amount of awards entered into by
118 the parties are not binding upon the special master or upon the
119 House of Representatives, the Senate, or any member of any
120 committee thereof.

121 (5) The hearing and consideration of a claim bill shall be
122 held in abeyance until all available administrative and judicial
123 remedies have been exhausted, except that the hearing and
124 consideration of a claim that is still within the judicial or
125 administrative system may proceed when the parties have executed
126 a written settlement agreement.

127 (6) The special master and the joint committee are
128 authorized to examine lobbying fees regarding any filed claim
129 bill. Lobbying fees shall be presumed excessive if they are more
130 than:

131 (a) 3% of the total amount awarded in the bill for a claim
132 that is settled when filed; or

133 (b) 5% of the total amount awarded in the bill for a claim
134 that is not settled when filed.